

INVENTORS AND PATENTEE'S MANUAL

ISSUED BY

THE INTERNATIONAL PATENT OFFICE,

OTTAWA, MONTREAL & LONDON, (ENG.)

MANAGER :

E. W. PLUNKETT. *Civil Engineer.*

Provincial Patents issued before 1st July 1869 *apply only to the Province where granted* but they may now be extended over the Dominion, in case the Patentee is a British subject ~~and~~ ^{or} a Resident.

Particular attention given to securing these extensions.
See pamphlet for expenses &c.

ALSO,

"THE PATENT ACT OF 1869" OF CANADA.

Montreal :

PRINTED BY LOUIS PERRAULT & CO., 134 ST. JAMES STREET,

1869

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E. W. PLUNKETT, *Civil Engineer,*

88 GREAT ST. JAMES STREET,
MONTREAL.

Containing Suggestions and Instructions for Inventors and Patentees
respecting the Laws, Rules of Practice, Mode of Procedure
and Cost of obtaining of Patents in
Canada and Foreign Countries.

ALSO,

"THE PATENT ACT OF 1869" OF CANADA.

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*All Communications to this Agency are considered
strictly confidential.*

SUGGESTIONS

TO

INVENTORS AND PATENTEEs.

When a person wishes to patent an Invention, the best thing to do before going to the expense of making formal application, is, to ascertain first, if the Invention is patentable, and next, if anything similar to it has been patented before. Possessed of this information—which may be obtained at a trifling expense—the intending Patentee is enabled to form a correct opinion of the prospect of securing a good and valid Patent ; it may also save him considerable expense, by rendering unnecessary, certain proceedings in the Patent Office in the first place, or in the Law Courts subsequently ; for if an application interferes with another similar invention already patented, or about to be so, arbitrators have to be appointed and a tedious legal process gone through, in order to determine the rightful owner of the Patent. But if an intending Patentee knows precisely the nature and extent of previous similar Patents, his application may, in most cases, be prepared so as to avoid a conflict, and still fully cover his own invention. It will thus be seen that an acquaintance with prior similar Patents gives a great advantage in the preparation of applications, and that it also enhances the value of Patents by rendering them less liable to be contested.

Patents may be called in question at any time before a Judicial Tribunal, and if found defective, repealed : therefore none can be considered positively valid unless capable of resisting the severest scrutiny of the law, and any legal evidence that may be brought against them. In some countries Patents are granted on the representations of the applicant, without any examination of the truth of his allegations, or the merits of the Invention. In other countries, applications are carefully investigated, and only granted when the

examining officials are satisfied that the Patent claimed is for a novelty, &c. But in all countries, the actual validity of a Patent can be *finally* proved only in Courts of Law. In order therefore to have an Invention thoroughly protected, it is not alone sufficient to have it *patented*; it must be clearly and definitely described and the statements and claims advanced in the application must be capable of undeniable proof. These considerations shew the importance of having the application and official documents properly prepared. The transaction of business with the Patent Office also requires the case to be well and carefully drawn up.

PRELIMINARY EXAMINATIONS.

Copies of the Patent Records of Great Britain, the United States and the four Provinces now forming the Dominion of Canada are kept on file, at the Head Office of this agency in Montreal, so that searches of the patented Inventions of these countries can be made at any time and reports of same forwarded on short notice to inventors and Patentees for their guidance.

When a Report of Preliminary Examinations is forwarded to an Inventor or Patentee from this agency, an opinion respecting the novelty of his Invention, the practicability of obtaining a Patent &c, will also be furnished to him. Such opinion being based on the experience of many years in connection with Patents and Patents business, will, it is confidently expected, be of much service to inventors, by assisting them to a conclusion respecting the best course to pursue in relation to their Invention.

The documents required by this agency in order to institute a Preliminary Examination and furnish Report or to make formal application for Patent are :

1ST.—A detailed written description of the Invention, containing the fullest particulars of its construction, operation, advantages, difference from other known similar inventions : in fact the whole of the Inventor's ideas respecting it clearly explained, and concluding with a short specific statement of the precise parts claimed as for instance, " I claim the Box A the Shaft B " &c.

2ND.—A drawing, pen sketch, or a model explaining the Invention.

The above comprises all (excepting the fees) that is required by this Agency, either to make a preliminary examination or prepare a complete and formal application for patent.

The FEES for PRELIMINARY EXAMINATION, REPORT and OPINION, are as follows :

Great Britain	-	-	\$5 to \$10
United States	-	-	\$5 to \$10
Canada	-	-	\$3 to \$10

The precise sum will be in proportion to the amount of trouble taken and within the limits above stated.

In forwarding instructions to make Preliminary Examination, the lesser fee, as above, will require to accompany papers. If the amount of trouble involved requires a larger fee, the inventor will be notified accordingly and asked to send it afterwards.

Patentees and others are requested to bear in mind that a Preliminary Examination and Report guarantees nothing ; if favorable, it only renders the granting of a good Patent *very probable*. This preliminary step is of course quite optional with the Inventor or Patentee. It is only recommended here as affording important advantages in preparing formal application, and securing good Patents.

CANADA

A new Law came into operation on the 1st July 1869. A copy of same may be found at end of this Pamphlet. Under its provisions Patents are now granted for the entire Dominion by the General Government. The following are the chief features of the "*Patent Act of 1869*," and Office Rules of Practice.

WHO MAY OBTAIN A PATENT :—

Patentees may be of any nationality but must have resided in Canada for one year next before application.

ASSIGNEE AND ASSIGNMENTS :—

Patents may issue to the Assignees or Representatives of these entitled to obtain Patents. Assignments of the whole or part interest of an invention must be registered in the Patent Office. The Assignment first executed takes precedence.

MODEL :—

A Model will be required unless specially dispensed with by the Commissioner. It must not exceed 18 inches in its longest side unless allowed by special permission. It should be forwarded hereby Express paid and Express receipt sent by letter. The Model must bear the name of Inventor, the title of invention, and date of application.

DURATION :—

Patents will be issued for 5 years, but may be extended for two additional periods of 5 years each (upon application), making the whole duration 15 years.

AMENDED PATENTS :—

Patents deemed defective by reason of deficient descriptions specifications or excessive claims, may be amended if errors arise through inadvertance and are disclaimed.

NULLITY :—

Patents shall be void if any material point set forth in the documents forming application, be untrue.

MANUFACTURING :—

Patents shall also be void unless the construction and manufacture of the Invention is carried on within three years from date of Patent.

PATENTS ISSUED UNDER FORMER LAWS :—

These shall remain in force for the same time and extent of Territory for which they were originally granted, but they may be extended by the Commissioner (upon proper application being made) over the whole Dominion in terms of 5 years, as in the case of new Patents. The whole term of such extension however, can not exceed the then unexpired period of the original Patent. The applicant must also be a British subject ~~or~~ ^{and} resident in any one of the Provinces for upwards of a year, to enable him to get such extension. In applying for Extension of old Provincial Patents over the entire Dominion, the original Patent will have to be sent with the application and official documents.

CAVEATS :—

Inventors who have not completed their Inventions, or are not prepared to proceed with formal application for Patent, but desire temporary security, may file a *Caveat* in the Patent Office. This is a confidential communication consisting of a specification and if the Inventor desires it, drawings. It is kept secret in the Patent Office and may be supplemented from time to time with additional specifications. Caveats hold good for four years, but if in the meantime another person makes application for a Patent interfering with said Caveat, the depositor of that document will be required to complete his formal application for Patent within three months from date of notice, to that effect.

PATENTS REFUSED :—

The Commissioner may refuse to grant patents.

- 1st If he thinks the invention is not patentable.
- 2nd If the invention is in possession of the public with consent of Inventor.
- 3rd If the invention is described in print before application.
- 4th If the invention has been patented in another country more than 6 months prior to application in Canada.

APPEAL :—

If the Commissioner refuses to grant a Patent *an appeal*, against his decision may be made to the Governor in Council.

STAMPING PATENTED ARTICLES :—

Every patented articles offered for sale shall be stamped or engraved as such, with year of patent thus "Patented 1869" or as the case may be.

FEES AND HOW PAYABLE :—

The following is the Schedule of *Government* and *Agency fees* ; the *total* of both being the *whole* expense, to an inventor or patentee, of preparing all specifications drawings and other official documents and performing all other work necessary in securing an ordinary patent for a client ; always excepting the expense of model, which he is expected to furnish.

	Govt. Fee	Agency Fee	Total
Patent for 5 years.....	\$20	\$10 to \$25	\$30 to \$45
Continuation.....	5	5 to 10	10 to 15
{ Extension of Provincial Patent over Domi- nion for say 5 years. }	20	10 to 15	30 to 35

Moderate charges will be made for copies of specifications and drawings of patented inventions, and all other business in connected with patent office.

FEES WHEN RETURNABLE :—

The *Government* return *half* its fees when the application is for an invention not patentable, and when the petition is withdrawn.

THE FEES ARE PAYABLE to this Agency as follows. When the papers and instructions are forwarded here the *Government Fee* is required to be sent with them. When the case is prepared and the documents sent to Inventor for signature and attestation the *Agency Fee* is sent back with them. The case is then prosecuted with all due despatch.

TIME REQUIRED TO OBTAIN PATENT :—

From 3 to 6 weeks generally elapses before a Patent can be sent to an Inventor, but the result is made known in much less time to applicants.

PERSONAL ATTENDANCE is not necessary : the business can be done by correspondence.

REMITTANCES should be made by Post Office Order or Bank Draft payable to order of the Manager.

NEWFOUNDLAND

ANY PERSON being the Inventor may obtain a Patent for 14 years.

EXTENSIONS granted for 7 years.

INVENTIONS must be worked within two years or they expire.
Cost of Patent from \$50 to \$100.

PRINCE EDWARD ISLAND.

NO ONE, unless an inhabitant, can take out a Patent in this colony, except by special Act of Parliament.

Duration of Patent 10 years.

Cost of Patent will not exceed \$50.

GREAT BRITAIN.

ANY PERSON being the inventor or first importer can obtain a Patent, provided the invention is a patentable one.

PROVISIONAL PROTECTION is granted to applicants for 6 months (upon filing the necessary documents) to enable them to publish and perfect their inventions. Eight weeks before the expiration of the provisional protection, "notice to proceed" has to be given, if the inventor intends to go on with his case. Opposition to the issue of the Patent must be made not later than twenty-one days after "notice to proceed" has been published in Official Gazette.

IN CASE OF OPPOSITION the decision of the Law Officers of the Crown settles the question, but the Lord Chancellor may over-rule that decision.

WHEN THERE IS NO OPPOSITION the final specification and drawings are filed, and the Patent is granted.

THE PATENTEE need not necessarily secure provisional protection, but may deposit the final papers at once, in which case he is saved the cost of the provisional step.

A MODEL IS NOT REQUIRED for Great Britain.

The whole expense is as follows :

Provisional Protection	\$ 50.00
Taking out a Patent, say an ordinary case, when there is no opposition	200.00

At the end of three years to keep the Patent in force, a government tax of \$250 will have to be paid, and at the end of seven years \$500, additional, making the entire expense for the different periods as follows :—

Patent for three years, including provisional protection	\$250.00
Patent for seven years, including provisional protection	515.00
Patent for 14 years, including provisional pro- tection	1030.00

WITHOUT PROVISIONAL PROTECTION in the first place, the expense will be \$50 less than the last named amounts.

GENERAL MEMORANDA RESPECTING BRITISH LETTERS PATENT.

The invention must be new in the Kingdom, but may have been used and published abroad at date of application. An invention patented elsewhere may be secured at any time during the life of such first patent. The application must be limited to one invention. The invention must be useful to support a Patent, and there is a *nominal* investigation of its merits by the Law Officer, Attorney-General or Solicitor General.

The actual inventor or first importer—a native or foreigner—and the resident legal representative of a deceased applicant may become a Patentee. The first importer or communicator need not be the actual inventor, or even meritoriously connected with the invention. There is generally no remedy for the actual foreign inventor who has been anticipated in his application by a first importer, or communicator. A joint inventor cannot secure a Patent in his own name, but may, when residing abroad singly communicate the invention. A minor or married woman may secure a Patent.

The first stage of Patent is "Provisional Protection." The Invention is protected from date of application. To complete patent, "notice to proceed," must be given within four months, "warrant and seal," be applied for, within five and a half, and "complete specification," filed within six months when not lodged with the Petition. The application may be abandoned at any stage. The Invention may be worked and negotiated under the "Provisional Protection," but an assignment cannot be recorded or properly made before the issue of the patent. The grant of the Patent may be opposed within three weeks of the publication of "Notice to proceed." The Patent may be completed two months from first application. A limited extension of time may be obtained for taking the several steps when failure has arisen from accident or death of applicant.

NO MODEL or specimen can be deposited.—No patent of addition is granted, but disclaimers are allowed, and a duplicate patent, in case of the loss of the original, may be obtained. The patent is granted for FOURTEEN YEARS but expires with a prior foreign patent. AN EXTENSION, not exceeding FOURTEEN YEARS, is sometimes granted, or the patent may be annulled for good reasons. A stamp duty is payable at the end of the THIRD and SEVENTH YEARS of the patent. The patent-right does not extend to the Colonies. An assignment, to convey the title must be recorded. The patented invention may be freely imported, subject to the revenue laws. Either joint patentee may make and sell the patented article for his sole benefit. The law does not require the invention to be worked.

UNITED STATES.

PATENTS are granted to natives and foreigner alike, provided the laws of the country to which the foreigner belongs do not discriminate respecting Patents against natives of the United States. *If they do, a fee of \$500 is exacted.* Thus, Canadians and British subjects resident in Canada, have to pay that amount for a Patent in the United States, because the laws of Canada do not grant Patents to American citizens.

PATENTS FOR INVENTIONS ARE ISSUED FOR THE FOLLOWING :

1. Any new and useful art, method or process, or any improvement therein.
2. Any new and useful machine, or any improvement on any machine.
3. Any new and useful manufacture, or any improvement therein.
4. Any new and useful composition of matter, or any improvement in any composition of matter.

It is sometimes important to be able to prove the earliest date of an invention, or as soon after the time of its origin as can be definitively and positively proved. To this end, it is recommended to show and to explain to some confidential friend or friends the invention, or a model or drawing, as early as possible, and to induce such friends to record the date. This step, if the application for patent be followed up with—to use the language of the law—"reasonable diligence," is sometimes of great service. But such proof must be understood as availing nothing unless the development of the invention and an application for patent be made and followed up with due diligence.

DURATION of patent 17 years.

PRELIMINARY EXAMINATIONS made of the Records and Drawings in the Patent Office and a report furnished intending Patentees.

COPIES OF DRAWINGS and specifications of all patented inventions furnished at moderate expense.

CAVEATS, protecting inventions for one year, can only be filed by natives and resident aliens.

THE MODEL which should be forwarded by express, prepaid, addressed to the Manager of this agency upon application for a patent, should be neatly made of hard wood or some other durable material not exceeding twelve inches in any of its dimensions, unless a larger model is necessary to exhibit the invention; and the title of the invention must be affixed upon it in a permanent manner. When the invention is a composition of matter, a specimen of each of the ingredients and of the composition must accompany the application.

THE AVERAGE TIME required to obtain a patent is about five weeks, and sometimes owing to the delay occasioned by the accumulation of business, a much longer time is required, very exertion is used and it is made a special point to obtain an early examination in cases entrusted to this agency.

THE FEES are as follows :—

<i>Obtaining Patent</i> , ordinary case supposing no appeal interference, &c., is necessary and that the applicant is not a <i>Citizen</i> of Canada	Govt. Fees	Agency Fees	Total
Caveat.....	\$35	\$20 to \$40	\$55 to \$75
Appeal to examining board.	10	10 to 15	20 to 25
“ to Commissioner ...	10		10
Reissue of Patent.....	20		20
Extension of “	30	25	55
Disclaimer.....	100		
Copies of Drawings of any Patent.....	10	5	15
Copies of Specification of any Patent.....			2
			2

The above amounts are *American Currency*.

INTERFERENCES :—

When two applications are made at the same time for similar inventions they are declared to “interfere”—The applicants are notified to give evidence as to the date when each made the invention. The one proving priority gets the Patent and the other is rejected.—Interference cases require the management of skilful agents well versed in the office rules besides theoretical and practical science.—The cost of interferences depend on the amount of trouble, &c.

REJECTED CASES :

In order to insure success and withstand litigation, the application for letters-patent should be drawn with care and skill by an experienced hand, as a vast number of applications have been rejected for informality, and there are many partially rejected cases now lying in the Patent-Office, for which patent-letters might be obtained by remodeling defective papers, arguing the case before the Examiners, or taking an appeal to the Board of Examiners-in-Chief.

APPEALS :—

After the application for a patent has been twice rejected by the examiner having it in charge, an appeal may be taken—

FIRST TO THE BOARD OF EXAMINERS-IN-CHIEF, on payment of \$10 Government Fee, who will consider the case as it was when last passed upon by the Primary Examiner, merely reversing his decision so far as they were adverse to the applicant. If an adverse decision is given by the officers, a second appeal may be taken to the Commissioner of Patents on payment of a Government Fee of \$20. If the Commissioner also rejects the application, a third and final appeal may be taken to the Supreme Court of the District of Columbia. This final appeal being the last chance of securing a patent, it is of vital importance that a patent agent, thoroughly versed in patent law and the principles of mechanics, should be retained.

REISSUES :—

Many of the most useful patents have been several times re-issued and subdivided, and patents worthless, originally, rendered valuable by this method of procedure. In infringement cases, when the claims, as stated in the original patents, are defective or doubtful, it is usually the best plan to apply for a re-issue, and thus modify or reconstruct the claims in such a way as to meet and defeat infringers.

A **DISCLAIMER** may be filed in cases in which the inventor, by accident or mistake, has claimed too much in his original application, thus making his patent too broad. The disclaimer has the effect to limit the claims, and fortify the position of the patentee who is about to embark in litigation.

INFRINGEMENTS :—

Manufacturing, selling or using a patented article without permission from the Patentee, constitutes **INFRINGEMENT**. The person so infringing is liable to arrest, prohibition from the use of Tools, Machinery, &c., and treble amount of averages awarded.

BEFORE COMMENCING INFRINGEMENT SUITS, we invite parties to submit their cases to this Agency, and if a re-issue is desirable we will draw the papers for obtaining the same with special reference to the infringement complained of.

FRANCE.

PATENTS GRANTED FOR 15 YEARS, but when for imported inventions, they are limited to the duration of the prior foreign one.

Patents include the colonies.

The invention must be worked within two years from date of Patent, and if stopped for two consecutive years the Patent becomes void.

SUBJECT MATTER :—

The invention must be new in the empire, and should not have been made public abroad, at the date of application.—The invention must be industrial, and not opposed to the laws, public safety, or morals. Medicines, remedies, financial and credit schemes are not patentable.—There is no official investigations to determine the novelty or utility of the invention.

WHO MAY OBTAIN PATENTS :—

The inventor or author—a native or foreigner—may obtain a patent. The proprietor of an invention, though not the actual inventor, may now legally become a patentee. A corporation or firm may also obtain a patent.—Joint inventors should join in the application.—A patentee or registered assignee may obtain a certificate of additional improvements.

DURATION AND EXPENSES :—

There is no provisional protection—the application must be made complete.—The invention is protected from the day of filing the petition. The application is secret, and no opposition can be entered.—No model or specimen is required.—The patent is issued about four months after application, and extends over the colonies.—A patent grants the right to freely make, use, and vend, but not to import the invention.—The courts are inclined to sustain patents, and the laws are severe against infringers. No extension is allowed.—A tax is payable annually in advance—no days of grace.—The invention must be worked within two years of date of patent, and a "permit" is requisite to introduce a specimen.

The entire cost of an ordinary case is \$80.00
 Yearly tax to be paid government in advance
 (included in the above \$80 for 1st year) 25.00

BELGIUM.

PATENTS GRANTED FOR 20 YEARS, but imported Patents expire at the same time as the original Patent. A yearly tax, commencing at \$2 and increasing \$2 per annum, has to be paid to the government ; thus \$2 the first year, \$4 the second, \$6 the third year, and so on.

SUBJECT MATTER :—

The invention must be industrial.—The invention must not have been commercially worked in the kingdom, or fully described in any Belgian publication before the date of application. The prior working or publication abroad does not affect the patent.—There is no official investigation to determine the novelty or utility of the invention.

WHO MAY OBTAIN PATENTS :—

The actual inventor—a native or foreigner—or the assignee of the foreign patentee may obtain a patent. The foreign patentee, or the proprietor of the invention, though not the actual inventor may legally obtain a patent.—The *mere* importer, or introducer, is not entitled to a patent, though he may obtain one practically operative.—The grantee or his registered assign may secure a certificate of additional improvements. There is no provisional protection, the application being made complete.

DURATION AND EXPENSES :—

—The invention is protected from the day of application, and no opposition can be made to the grant of the patent.—No model or specimen is requisite. The patent is issued about two months after application.—The patented inventions may be freely imported, subject to the revenue laws.—The patent laws are liberally interpreted by the courts in favor of the patentee.—The patent is granted for twenty years, but does not continue after the expiration of all the prior foreign patents. There are no extensions.—A tax is payable annually in advance—six months' grace with penalty.—The invention must be worked within one year of its being worked in France, or, when no French patent has been obtained, within one year of its being commercially worked in any other foreign country.

Total cost of Patent \$60

RUSSIA.**SUBJECT MATTER :—**

A patent may be obtained in Russia for a "discovery, invention or improvement," of any object of utility, or of any industrial process not used or known in the Empire. A patent will not generally be granted for munitions of war, and care is taken that no article injurious to health or public safety be patented. There is a preliminary examination to determine the novelty and utility of the invention.

WHO MAY OBTAIN A PATENT :—

A valid patent may be obtained by the actual inventor or first importer—a native or foreigner. The importer to obtain a valid patent must, however, be an assign of the foreign inventor.

To obtain a patent a petition and specification in Russian, with duplicate in French, and one set of drawings, must be filed. A model is not generally required. To make the application the agent needs only a copy of the specification in English, a tracing, and simple power of attorney in French.

DURATION AND EXPENSES :—

The term of a patent of invention is limited to *ten years*, but may be obtained for *three or five years*.

The term originally granted "can by no means be extended." The patented invention must be worked within one-fourth of the term of the patent.

The tax on a patent of invention for three years is ninety silver roubles; five years one hundred and fifty, and for ten years four hundred and fifty silver roubles.

The *expenses* of a *patent of invention* for five years* is inclusive of translations of Russian and French copies of a specification of medium length, average drawings, and all agency charges \$200.

PRUSSIA.

SUBJECT MATTER :—

A patent may be obtained in Prussia, † for a "newly invented," "greatly improved" or imported object, not previously used or known. There is a strict preliminary examination to determine the novelty and utility of the invention.

WHO MAY OBTAIN A PATENT :—

A valid patent may be obtained by the actual inventor, or first importer. An English, French, Belgian, or Italian citizen, may obtain a patent in his own name, but not other foreigners.

To obtain a patent, a petition and specification in German, with one set of drawings, must be filed. A model is sometimes required, and no applications for a sewing-machine patent will be considered until the model is supplied.

DURATION AND EXPENSES :—

The term of the patent cannot exceed fifteen years. Prolongations are not granted. The patented invention must be worked within twelve months of the date of the patent.

There are no annuities, and the official stamps and fees are small. The expenses of a patent for the entire term are, inclusive of stamps, fees, translation, average drawings, and all agency charges \$75.

*The expenses for any term other than five years may be ascertained by adding or subtracting the difference of the tax, a silver rouble being estimated at about 80 cents.

† This patent covers the whole of the Prussian Kingdom, including Frankfort, Hanover, Hesse-Cassel, Hesse-Homburg, Nassau and Sleswig-Holstein. A liberal patent law, extending over the entire North German Confederation has been proposed by the Government.

AUSTRIAN EMPIRE.*

SUBJECT MATTER :—

THE SUBJECT MATTER of the Austrian and Hungarian patents must be a "discovery, invention, or improvement," having for its object a new product of industry," or "new means or mode of production," not worked or publicly known in the empire at the date of application.—Medicines, edibles, and beverages are not patentable, nor inventions opposed to sanitary laws, public regulations, interests, safety, or morals.—An invention patented abroad may be patented at any time during the currency of the foreign patent.—A patent will not be granted for two distinct inventions—they must relate to the same object as "component parts or operative means."—There is no investigation of the novelty or *general* utility of the invention, but the application will be rejected when the specification does not clearly explain and define the invention, or when it relates to any one of the prohibited subjects.—The officials now strictly enforce these conditions.

WHO MAY OBTAIN A PATENT :—

THE PATENTEE should be the inventor, his assignee or authorized agent—a native or foreigner. A *mere* importer is not entitled to a patent, but no proof of invention is required by the office, and patents of importation are generally operative.—The proprietor of an invention, though not the *formal* assignee, may obtain a valid patent in his own name or the name of an agent.

DURATION AND EXPENSES :—

The term of the patent is limited to fifteen years from the date of issue, but does not continue after the expiration of the prior foreign patents. A patent obtained for less than fifteen years may be prolonged. An extension beyond fifteen years cannot be obtained except by a special decree of the Emperor. The patented invention must be worked within one year from date of issue, and the working must not entirely cease for any two consecutive years.

The annual tax for each of the first five years is twenty-one florins, (\$10½) for the next five years an average of forty-two florins, (\$21) and for the next five years an average of eighty-two florins. (\$39) The municipal dues average about ten flo-

* The empire includes Austria and Hungary, contains thirty-five millions inhabitants, and covers one hundred and thirty thousand square miles.—The industrial interests of the country are making rapid progress, and few European states afford a more promising field for the introduction of new inventions.

A separate patent is now granted for the kingdom of Hungary, and an extra specification and drawings are required, but there are no additional taxes, and these charges include the cost of both patents.

rins (\$5) a-year. The cost of a prolongation is, including the tax of twenty florins municipal dues and agency charges, \$30. *The expenses of a patent for one year are, inclusive of tax, power of attorney, petition, translations, average drawings, and all agency charges,* \$80.

ITALY.

SUBJECT MATTER :—

Medicines and purely theoretical inventions cannot be patented alimentary products solid or liquid may be patented, but only after having passed examination by the Superior Council of health.

WHO MAY OBTAIN A PATENT :—

THE PATENTEE should be the inventor, his assignee or authorized agent—a native or foreigner.

DURATION AND EXPENSES :—

The maximum duration is 15 years, but in case of imported patents, it is limited by that of the prior foreign patent; applications may be made for any number of years between one and fifteen. When the patent is for 5 years or less the invention must be put into operation within the first year, and must not cease to be worked for the space of one year. If the patent is for more than five years, then it must be worked within two years, and must not cease to be worked for a similar length of time. In addition to the Government tax, payable when the patent is applied for, there is an annual tax to be paid increasing from \$6 for each of the first three years to \$22 for each of the years beyond the twelfth. Patents of addition are granted in Italy. The total expense of a patent for three years is \$100.

HOLLAND.

WHO MAY OBTAIN A PATENT :—

Patents may be secured in the name of the person possessing the invention, whether the inventor or not, or in the name of a resident agent; but in case the patentee in Holland afterwards secures a patent for the same invention elsewhere, the Dutch patent becomes void. Unless therefore, the inventor secures this patent last he should secure it in the name of the agent.

DURATION & EXPENSES :—

Patents are obtainable for five, ten or fifteen years. The invention must be worked within two years of the grant, or the patent will become void.

The total expense of patents is as follows:

For five years	- - - - -	\$140.00
" ten "	- - - - -	225.00
" fifteen "	- - - - -	375.00

BAVARIA

Patents are granted for any term from one to fifteen years. An imported Patent is limited by the Patent previously obtained abroad. Patents may be prolonged from year to year till the maximum period is attained. When a Patent of importation is taken for one year, the invention should be worked within the first six months, but for one of longer duration a delay of twelve months is granted. Applications are examined by a scientific Commission. The working of a Patent must not be stopped for two years.

The whole expense of a Patent say for five years is . . . \$110

DENMARK

No Patent Laws exist in Denmark but special privileges are granted by Government for Patents of invention varying in duration from three to twenty years as may be determined for each case. Imported Patents are seldom privileged beyond 5 years. The invention must be worked after the first year.

The total expense of a Patent is about . . . \$125

SPAIN.

Patents imported into Spain are granted only for 5 years. Inventions must be worked within one year after the date of grant; this time may be extended by taking certain formal steps and shewing good cause for such delay. If the working of a patent ceases for a year it is void.

The total expense of patent for 5 years is . . . \$250

SWEDEN.

Patents are granted for periods of from three to fifteen years, but are limited by the previous, if any, foreign one. The invention should be worked within two years, but an extension of that time may be obtained.

The whole expense of a patent is . . . \$125.

NORWAY.

Patents are granted for a period not exceeding ten years; the exact duration is fixed by Government as is also the time allowed

for working, applications are submitted to an examination. A model is not generally required although it is some times.

The whole expense of a patent is \$125.

BRITISH COLONIES.

EAST INDIES.

Patents are granted for 14 years, which term may be prolonged afterwards. The Patent covers the whole of British India. No condition as to working of Patents.

The entire cost of a Patent is \$175

VICTORIA, SOUTH AUSTRALIA.

The law of this colony is almost the same as the British. Patents granted for 3, 7 and 14 years. The invention need not be worked in the colony.

The entire cost of a Patent for three years is . . . \$150

NEW ZEALAND.

Patents granted for 14 years. No extension allowed, no condition as to working of Patents.

The entire cost of a Patent is \$175

NEW SOUTH WALES.

Patents granted from periods of from 7 to 14 years, at option of Governor. No condition as to working.

The entire cost of a Patent is \$200

TASMANIA.

Patents granted for any term not exceeding 14 years. No condition respecting working of invention.

The entire cost of Patent is \$175

REGISTERING TRADE-MARKS. DESIGNS, LABELS, &c.,

CANADA

ALL MARKS, names, brands, labels, packages, or other business devices which may be adopted for use by any person in his trade or occupation, for the purpose of distinguishing any thing manufactured, sold, or packed by him, shall be considered as Trade-marks, and may be registered for the exclusive use of the party registering the same.

Cost of registering Trade-mark, including Government and Agency fees \$6

DESIGNS REGISTERED.—The copyright of a design conferred by registration is valid for five years.

Cost of registering Design, including Government
and Agency fees \$6

ENGLAND

Protection by registration may be obtained in respect of certain articles falling into the two classes of USEFUL and ORNAMENTAL Designs. The Act declares that "any new and original design for any article of manufacture having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article," may be protected for three years. Duplicate drawings and specifications are required to be delivered to the Government Registrar. The expense of registering USEFUL DESIGNS varies from \$60 to \$100. ORNAMENTAL DESIGNS may be protected for periods of from 1 to 5 years, depending upon the particular article. The expense also varies in like manner from \$5 to \$30, according to the particular thing registered.

UNITED STATES

Designs may be secured for the following periods:—3½ years, 7 years, and 14 years. The expense of the protection depends on its length. The following is about what the cost will be:—

For 3½ years	\$20
For 7 years	25
For 14 years	40

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AN ACT RESPECTING PATENTS OF INVENTION.

HER Majesty, by and with the advice and consent of the Senate Preamble.
and House of Commons of Canada, enacts as follows :

PATENT OFFICE CONSTITUTED.

1. There shall be attached to the Department of Agriculture, as a branch thereof, an Office to be named The Patent Office ; and the Minister of Agriculture for the time being shall be the Commissioner of Patents of Invention ; and it shall be the duty of the said Commissioner to receive all applications, fees, papers, documents and models for patents, and to perform such acts and things respecting the granting and issuing of patents for new and useful inventions, discoveries, and improvements as are herein provided for ; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said Office.

Minister of
Agriculture to
be Commis-
sioner of Pa-
tents of Inven-
tion.

2. The Commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith letters patent and other instruments and copies proceeding from the Patent Office ; and all Courts, Judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the said Office to copies of or extracts from documents deposited in such office.

Seal to be
made and im-
pressions
thereof to be
received in
evidence.

3. The Commissioner may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this Act, and notice thereof shall be given in the *Canada Gazette* ; and all documents, executed after the same and accepted by the Commissioner, shall be held valid so far as relating to proceedings in the Patent Office.

Commissioner
to make rules
&c.

4. The Deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents of Invention ; and the Governor may, from time to time, appoint such clerks and officers under him

Deputy Com-
missioner of
Patents of In-
vention,

as may be necessary for the purpose of this Act, and such clerks and officers shall hold office during pleasure.

Annual report
and list of Pa-
tents.

5. The Commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this Act, and shall from time to time and at least once in a year, publish in the *Canada Gazette* a list of Patents granted, and may, with the approval of the Governor in Council, cause such specifications and drawings as may be deemed of interest, or essential parts thereof, to be printed from time to time for distribution or sale.

WHO MAY OBTAIN PATENTS.

Residents of
Canada may
obtain Patents
for their own
discoveries and
inventions.

6. Any person having been a resident of Canada for at least one year next before his application, and having invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter, not known or used by others before his invention or discovery thereof, or not being at the time of his application for a patent in public use or on sale in any of the Provinces of the Dominion with the consent or allowance of the inventor or discoverer thereof may, on a petition to that effect presented to the Commissioner and on compliance with the other requirements of this Act, obtain a Patent granting to such person an exclusive property therein; and the said Patent shall be under the seal of the Patent Office and the signature of the Commissioner, or the signature of another member of the Privy Council, and shall be good and avail to the grantee, his heirs, assigns or other legal representatives, for the period mentioned in such Patent; but no Patent shall issue for an invention or discovery having an illicit object in view nor for any mere scientific principle or abstract theorem.

Of foreign pa-
tent to said
inventor.

7. An original and true inventor or discoverer, shall not be deprived of the right to a Patent for his invention or discovery by reason of his having, previously to his application, taken out a Patent therefor in any other country, at any time within six months next preceding the filing of his specification and drawing as required by this Act.

Representative
of inventor
may obtain pa-
tent.

8. The Patent may be granted to any person to whom the inventor or discoverer entitled under the sixth section to obtain a Patent has assigned or bequeathed the right of obtaining the same, and the exclusive property in the invention or discovery in Canada, or in default of such assignment or bequest, to the executor or administrator of the deceased inventor or discoverer, or other legal representative.

Of patent for
improvement
on patented
invention.

9. Any person, having been a resident of Canada for at least one year next before his application; and who has invented or discovered any improvement on any Patented invention or discovery, may

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obtain a Patent for such improvement, but shall not thereby obtain the right of vending or using the original invention or discovery, nor shall the Patent for the original invention or discovery confer the right of vending or using the patented improvement.

10. In cases of joint applications, the Patent shall be granted in the names of all the applicants; and in such cases, any assignment from one of the said applicants or patentees to the other shall be registered in the manner of other assignments.

Of joint applicants for patent.

CONDITIONS AND FORMALITIES.

11. Every Applicant for a Patent, before he can obtain the same, shall make oath or when entitled by law to make an affirmation instead of an oath, shall make an affirmation that he verily believes that he is, or that the person whose assignee or representative he is, is or was the true inventor, or discoverer of the invention or discovery for which the Patent is solicited, and that he, or the person whose assignee or representative he is, was a resident of Canada for one year next before the application, or in case of death of the inventor or discoverer, for one year next before such death. Such oath or affirmation may be made before any Justice of the Peace in Canada; but if the applicant, is not at the time in Canada, the oath or affirmation may be made before any Minister Plenipotentiary, *chargé d'affaires*, consul or consular agent, holding commission under the Government of the United Kingdom, or any Judge of the Country in which the applicant happens at the time to be.

Declaration to be made by applicant for patent.

12. The Petitioner for a Patent shall for all the purposes of this Act elect his domicile at some known and specified place in Canada, and mention the same in his Petition for a Patent, and he shall in the same petition state the place or places in Canada at which he, or if his application be as assignee or representative, the person whose assignee or representative he is, was resident during the year of residence required by this Act, and the period of residence at each such place.

Petitioner to elect domicile in Canada.

13. The applicant shall, in his petition for a Patent, insert the title or name of his invention or discovery, its object and a short description of the same, and shall distinctly allege all the facts which are necessary under this Act to entitle him to a Patent therefor, and shall, with the petition, send in a written specification, in duplicate, of his invention or discovery, describing the same in such full, clear and exact terms, as to distinguish it from all contrivances or processes for similar purposes.

Contents, &c. of application for patent.

14. The specification shall correctly and fully describe the mode or modes of operating contemplated by the applicant,—and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege;—it shall bear the name of the place where it

Specification and drawing.

is made, the date, and be signed by the applicant and two witnesses;—in the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same; in the case of a machine or in any other case where the invention or discovery admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate showing clearly all parts of the invention or discovery; and each drawing shall bear the name of inventor or discoverer and shall have written references corresponding with the specification, and a certificate of the applicant that it is the drawing referred to in the specification; but the Commissioner may require any greater number of drawings than those above mentioned, or dispense with any of them, as he may see fit; one duplicate of the specification and of the drawings, if any drawings, shall be annexed to the Patent, of which it forms an essential part and the other duplicate shall remain deposited in the Patent Office.

Working
model.

15. The applicant shall also deliver to the Commissioner, unless specially dispensed from so doing for some good reason, a neat working model of his invention or discovery on a convenient scale, exhibiting its several parts in due proportion, whenever the invention or discovery admits of such model; and shall deliver to the Commissioner specimens of the ingredients, and of the composition of matter sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter; provided such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they are to be furnished only when specially required by the Commissioner, and then with such precaution as shall be prescribed in the said requisition.

CONTENTS, DURATION, SURRENDER, RE-ISSUE OF PATENTS AND DISCLAIMERS.

Contents of
patents.

16. Every Patent granted under this Act shall recite briefly the substance of the petition on which it is granted, and shall contain the title or name of the invention or discovery and a short description of the same, referring for a fuller detail to the specification,—and shall grant to the Patentee, his assigns and legal representatives, or in trust as the case may be, for the period therein mentioned from the granting of the same, the exclusive right, privilege and liberty of making, constructing and using, and vending to others to be used, the said invention or discovery,—and shall contain a condition that it is nevertheless subject to adjudication before any Court of competent jurisdiction.

Duration of
patents.

17. Patents of invention or discovery issued by the Patent Office shall be valid for a period of five years; but at or before the expiration of the said five years, the holder thereof may obtain an extension of the Patent for another period of five years, and after those

second five years, may again obtain a further extension for another period of five years ; and the instrument delivered by the Patent Office for such extension of time shall be in the form which may be from time to time adopted, and shall be made in duplicate, one duplicate to remain of record and be duly registered, and the other to be attached, with reference, to the Patent, under the seal of the Patent Office, and signature of the Commissioner, or any other Privy Councillor in case of absence of the Commissioner.

18. Every such patent, and every instrument for granting a further extension of any patent shall, before it is signed by the Commissioner or any other member of the Privy Council and before the seal hereinbefore mentioned is affixed to it, be examined by the Minister of Justice, who, if he finds it conformable to law, shall certify accordingly, and such patent or instrument may then be signed and the seal affixed thereto, and being duly registered, shall avail to the grantee thereof and be delivered to him.

Certificate of the Minister of Justice.

19. Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error rose from inadvertance, accident or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent in accordance with an amended description and specification to be made by such patentee, to be issued to him for the same invention or discovery, for any part or the whole of the then unexpired residue of the five years period for which the original patent was or might have been as hereinbefore directed, granted;—In case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee, or legal representative : The new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent.

In case of error the Commissioners may cause a new patent to be issued.

20. Similarly, whenever by any mistake, accident or inadvertence and without any wilful intent to defraud or mislead the public a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor or discoverer, or has in the specification claimed that he or the party through whom he claims was the first inventor or discoverer of any material or substantial part of the invention or discovery patented of which he was not the first inventor or discoverer, and had no legal right thereto ;—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he shall not claim to hold by virtue of the patent or the assignment thereof ;—such disclaimer shall be in writing, and in duplicate,

Patentee may make disclaimer.

and attested in the manner hereinbefore prescribed for a patent, one copy to be filed and recorded in the Office of the Commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in making it. In case of the death of the original Patentee or of his having assigned the Patent, a like right shall vest in his assigns or legal representatives respectively, any of whom may make disclaimer. The Patent shall thereafter be deemed good and valid for so much of the invention or discovery as is truly the disclaimant's own, and not disclaimed, provided it be a material and substantial part of the invention or discovery, and definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain a suit for such a part accordingly.

ASSIGNMENT AND INFRINGEMENT OF PATENTS.

Government
may use any
patented in-
vention.

21. The Government of Canada may always use any patented invention or discovery, paying to the patentee such sum as the Commissioner may report to be a reasonable compensation for the use thereof.

Patents to be
assignable.
Assignments to
be registered.

22. Every Patent for an invention or discovery whensoever issued shall be assignable in law either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and also every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention or discovery patented within and throughout the Dominion of Canada, or within and throughout any one or more of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or any part of any of such Provinces or of the Dominion, shall be registered in the Office of the Commissioner; and every assignment affecting a Patent for invention or discovery shall be deemed null and void against any subsequent assignee unless such instrument is registered as hereinbefore prescribed, before the registering of the instrument under which such subsequent assignee may claim.

Penalty for in-
fringement of
patent.

23. Every person who, without the consent in writing of the Patentee, makes, constructs or puts in practice any invention or discovery for which a Patent has been obtained under this Act or procures such invention or discovery from any person not authorized to make or use it by the Patentee, and uses it, shall be liable to the Patentee in an action of damages for so doing;—and the judgment shall be enforced, and the damages, and costs as may be adjudged, shall be recovered in like manner as in other cases in the Court in which the action is brought.

24. An action for the infringement of a Patent may be brought before any Court of Record having jurisdiction to the amount of damages asked for and having its sittings within the Province in which the infringement is said to have taken place, and being at the same time, of the Courts of such jurisdiction within such Province, the one of which the place of holding is nearest to the place of residence or of business of the defendant; and such Court shall decide the case and determine as to costs. In any action for the infringement of a Patent, the Court if sitting or any Judge thereof in Chambers if the Court be not sitting may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture or sale of the subject matter of the patent, and for his punishment in the event of disobedience to such order; or for inspection or account, and respecting the same and the proceedings in the action, as the Court or Judge may see fit:—but from such order an appeal shall lie under the same circumstances and to the same Court, as from other judgments or orders of the Court in which the order was made.

Action for infringement of patent.

25. Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor or discoverer, and it appears that the defendant used or infringed any part of the invention or discovery justly and truly specified and claimed as new, the Court may discriminate, and the judgment may be rendered accordingly.

Court may discriminate in certain cases.

26. The defendant in any such action may specially plead as matter of defence any fact or default which by this Act or by law would render the Patent void; and the Court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly.

Defence in such cases.

NULLITY IMPEACHMENT AND VOIDANCE OF PATENTS.

27. A Patent shall be void, if any material allegation in the petition or declaration of the applicant be untrue, or if the specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being wilfully made for the purpose of misleading; but if it shall appear to the Court that such omission or addition is simply an involuntary error, and it is proved that the Patentee is entitled to the remainder of his Patent *pro tanto*, the Court shall render a judgment in accordance with the facts, and determine as to costs, and the Patent shall be held valid for such part of the invention described, and two office copies of such judgment shall be furnished to the Patent Office by the Patentee, one to be registered and to remain of record in the office, and the other to be attached to the Patent and made a part of it by a reference.

Patent to be void in certain cases or only valid for part.

Patents to be
conditioned on
manufacture
in Canada of
thing patented.

28. Every Patent granted under this Act shall be subject and expressed to be subject to the condition that such Patent and all the rights and privileges thereby granted shall cease and determine and the Patent shall be null and void, at the end of three years from the date thereof, unless the Patentee shall, within that period, have commenced and shall after such commencement carry on in Canada the construction or manufacture of the invention or discovery patented, in such manner that any person desiring to use it may obtain it or cause it to be made for him at a reasonable price at some manufactory or establishment for making or constructing it, in Canada, and that such patent shall be void if after the expiration of eighteen months from the granting thereof the patentee or his assignee or assignees for the whole or a part of his interest in the Patent, imports of causes to be imported into Canada, the invention or discovery for which the Patent is granted.

Proceedings
for impeachment
of patent.

29. Any person desiring to impeach any Patent issued under this Act, may obtain a sealed and certified copy of the Patent and of the petition, declaration, drawings and specification thereunto relating, and may have the same filed in the Office of the Prothonotary or Clerk of the Superior Court for the Province of Quebec, or of the Court of Queen's Bench or Common Pleas for the Province of Ontario, or of the Supreme Court in the Province of Nova Scotia, or of the Court of Queen's Bench in the Province of New Brunswick, according to the domicile elected by the Patentee as aforesaid: which Courts shall adjudicate on the matter and decide as to costs. The Patent and documents aforesaid shall then be held as of record in such Court, so that a Writ of *Scire Facias* under the Seal of the Court grounded upon such record may issue for the repeal of the Patent, for legal cause as aforesaid, if upon proceedings had upon the Writ in accordance with the meaning of this Act the Patent be adjudged to be void.

Certificate of
judgment voiding
patent to
be entered.

30. A certificate of the judgment voiding any Patent shall, at the request of any person or party filing it to be of record in the Patent Office, be entered on the margin of the enrolment of the Patent in the Office of the Commissioner, and the Patent shall thereupon be and be held to have been void and of no effect, unless and until the judgment be reversed on appeal as hereinafter provided.

Judgment to
be subject to
appeal.

31. The judgment declaring any Patent void shall be subject to appeal to any Court of Appeal having appellate jurisdiction in other cases over the Court by which the same was rendered.

PATENTS ISSUED UNDER FORMER LAWS.

Existing Provincial
patents to remain
in force.

32. All Patents issued under any Act of the Legislature of the late Province of Canada, or of Nova Scotia or of New Brunswick, and all Patents issued for the Provinces of Ontario and Quebec

under the the Act of the late Province of Canada, to the date of the coming into operation of the present Act, shall remain in force for the same term, and for the same extent of territory, as if the Act under which they were issued had not been repealed, but subject to the provisions of this Act in so far as applicable to them.

2. And it shall be lawful for the Commissioner, upon the application of the Patentee named in any such Patent, being the inventor or discoverer of the subject matter of the patent and a British subject, or a resident in any Province of Canada for upwards of a year, if the subject matter of the patent has not been known or used nor with the consent of the patentee, on sale in any of the other Provinces of the Dominion, to issue on payment of the proper fees in that behalf a patent under this Act extending such Provincial patent over the whole of the Dominion, subject to the provisions of the seventeenth section; but no patent so issued shall extend beyond the remainder of the term mentioned in the Provincial Patent:

33. All the records of the Patent Offices of the late Province of Canada, and of the Provinces of Ontario and Quebec, of Nova Scotia and New Brunswick, shall be handed over by the Officers in charge of them to the Commissioner of Patents of invention or discovery, to form part of the records of the Patent Office for the purposes of this Act.

Records of Provincial patent offices to be handed over to Commissioner.

TARIFF OF FEES.

34. The following fees shall be payable, to the Commissioner, before an application for any of the purposes hereinafter mentioned shall be entertained, that is to say:

Tariff of fees.

On petition for a Patent for 5 years	\$20 00
On petition for extension from 5 to 10 years	20 00
On petition for extension from 10 to 15 years	20 00
On lodging a Caveat	5 00
On asking to register a judgment <i>pro tanto</i>	4 00
On asking to register an assignment	2 00
On asking to attach a Disclaimer to a Patent	4 00
On asking for a copy of Patent with specification	4 00
On petition to re-issue a Patent after surrender, and on petition to extend a former patent to the Dominion, the fee shall be at the rate of	4 00
for every unexpired year of duration of such Patent.	

On office copies of Documents, not above mentioned, the following charges shall be exacted:

For every single or first folio of certified copy	\$0 50
For every subsequent hundred words, (fractions from and under fifty being not counted, and over fifty being counted for one hundred).	0 25

Copies of
drawings.

35. For every copy of drawings, the party applying shall pay such sum as the Commissioner considers a fair remuneration for time and labor expended thereon by any officer of the Department or person employed to perform such service.

Fees to be in
full for all
services.

36. The said fees shall be in full of all services performed under this Act in any such case by the Commissioner or any person employed in the Patent Office.

Fees to be paid
over to Re-
ceiver General.

37. All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue Fund of Canada, except such sums as may be paid for copies of drawings when made by persons not receiving salaries in the Patent Office.

Of return of
fees.

38. No fee shall be made the subject of exemption in favor of any person; and no fee, once paid, shall be returned to the person who paid it, except;

1. When the invention is not susceptible of being patented;
2. When the petition for a Patent is withdrawn;

And in every such case the Commissioner may return one half of the fee paid;

And in the case of withdrawal, a fresh application shall be necessary to revive the claim, as if no proceeding had taken place in the matter.

MISCELLANEOUS PROVISIONS.

Intending ap-
plicant for
patent may file
caveat.

39. An intending applicant for a Patent who has not yet perfected his invention or discovery and is in fear of being despoiled of his idea, may file in the Patent Office a description of his invention or discovery so far with or without plans, at his own will, and the Commissioner, on reception of the fee hereinbefore prescribed, shall cause the said document to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said party or by any judicial tribunal—the secrecy of the document to cease when he obtains a Patent for his invention or discovery; and such document shall be called a *caveat*. Provided always that if application shall be made by any other person for a Patent for any invention or discovery with which such *caveat* may in any respect interfere, it shall be the duty of the Commissioner forthwith to give notice by mail, to the person who has filed such *caveat* and such person shall within three months after the date of mailing the notice, if he would avail himself of the *caveat*, file his petition and take the other steps necessary on an application for patent, and if, in the opinion of the Commissioner the applications are interfering, like proceedings may be had in all respects as are by this Act provided in the case of interfering applications. Provided further that unless the person filing any *caveat*, shall within four years from the filing thereof have made application for a patent, the *caveat* shall be void.

40. The Commissioner may object to grant a Patent in the following cases : Commissioner may object to grant a patent in certain cases.

1. When he is of opinion that the alleged invention or discovery is not patentable in law ;
2. When it appears that the invention or discovery is already in the possession of the public with the consent or allowance of the inventor ;
3. When it appears that the invention or discovery has been described in a book or other printed publication before the date of the application or otherwise in the possession of the public ;
4. When it appears that the invention or discovery has already been patented, excepted, however, when the case is one within the seventh section of this Act or one in which the Commissioner has doubts as to whether the patentee or the applicant is the first inventor or discoverer.

41. Whenever the Commissioner objects to grant a Patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner. Commissioner to notify applicant and state ground of objection.

42. Every applicant who has failed to obtain a Patent by reason of the objection of the Commissioner as aforesaid, may at any time within six months after notice thereof has been addressed to him or his agent, appeal from the decision of the Commissioner to the Governor in Council. Applicant may appeal to Governor in Council.

43. In cases of interfering applications for any Patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Commissioner, or by his Deputy or the person appointed to perform the duty of that office ;—And the decision or award of such Arbitrators, or any two of them, delivered to the Commissioner in writing, and subscribed by them, or any two of them, shall be final as far as respects the granting of the Patent ; Arbitration in case of more than one applicant.

2. If either of the applicants refuses or fails to choose an Arbitrator, when required so to do by the Commissioner, the Patent shall issue to the opposite party ; And when there are more than two interfering applicants, and the parties applying do not all unite in appointing three Arbitrators, the Commissioner or his Deputy or person appointed to perform the duty of that office, may appoint the three Arbitrators for the purposes aforesaid. The same.

44. All specifications, drawings, models, disclaimers judgments and other papers, except *caveats*, shall be open to the inspection of the public at the Patent Office, under such regulations as may be adopted in that behalf. Documents to be open to inspection.

Clerical errors
not to invali-
date.

45. Clerical errors happening in the framing or copying of any instrument of the Patent Office, shall nor be construed as invalidating the same, but when discovered they may be corrected under the authority of the Commissioner.

Lost or des-
troyed patent
may be re-
placed.

46. In case any Letters Patent shall be destroyed or lost, others of the like tenor, date and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents.

Use of patented
inventions in
foreign ships.

47. No Letters Patent shall extend to prevent the use of any invention or discovery in any foreign ship or vessel, where such invention or discovery is not so used for the manufacture of any goods to be vended within or exported from Canada.

Patent not to
affect previous
purchaser of
invention.

48. Every person who before the issuing of a Patent has purchased, constructed or acquired any invention or discovery for which a Patent has been obtained under this Act, shall have the right of using and vending to others, the specific art, machine, manufacture or composition of matter patented, so purchased, constructed or acquired before the issue of the Patent therefor, without being liable to the Patentee or his representatives for so doing; but the Patent shall not be held invalid as regards other persons by reason of such purchase, construction or acquisition or use of the invention or discovery by the person first aforesaid, or by those to whom he may have sold the same, unless the same was purchased, constructed or acquired or used for a longer period than one year before the application for a patent therefor.

Patented
articles to be
stamped.

49. Every Patentee under this Act, shall stamp, or engrave on each patented article sold or offered for sale by him, the year of the date of the Patent applying to such article, thus: "Patented 1869,"—or as the case may be; and any such patentee selling or offering for sale any such Patented article not so marked, shall be liable to the punishment of a fine not to exceed one hundred dollars, and, in default of the payment of such fine, to imprisonment not to exceed two months.

Certain offend-
ers to be guilty
of a misde-
meanor.

50. Whosoever writes, paints, prints, moulds, casts, carves engraves, stamps or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the Patentee, the name or any imitation of the name of any Patentee for the sole making or selling of such thing without the consent of such Patentee—or without the consent of the Patentee writes, paints prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the Patentee, the words, "Patent," "Letters Patent," "Queen's Patent," "Patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark or device of the Patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the Patentee,

—shall be deemed to have committed a misdemeanor, and shall on conviction be punished therefor by fine, or by imprisonment, or both, in the discretion of the Court before which the conviction shall be had; but the fine shall not exceed two hundred dollars, nor shall the imprisonment exceed three months.

51. Any person wilfully making or causing to be made any false entry in any register or book, or any, false or altered copy of any document relating to the purposes of this Act, or who shall produce or tender any such false or altered document knowing the same to be such, shall be guilty of a misdemeanor and shall be punished by fine and imprisonment accordingly. Making a false entry or copy to be a misdemeanor.

52. Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting Patents for Inventions,—Chapter one hundred and seventeen of the Revised Statutes of Nova Scotia, (third series),—Chapter one hundred and eighteen of the Revised Statutes of New Brunswick,—and any Act amending any of the said Chapters, or any other Act, are hereby repealed, in so far as they or any of them may be inconsistent with this Act, or make any provision in any matter provided for by this Act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws or any of them, before the coming into force of this Act. Acts repealed.

53. When citing this Act it shall be sufficient to call it "The Short title. Patent Act of 1869."

54. This Act shall commence and take effect on the first day of July, 1869. Commencement.